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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,532	07/31/2001	Neil Schloss	81074349	3639
28395 7590 01/23/2008 BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238			EXAMINER AKINTOLA, OLABODE	
			ART UNIT 3691	PAPER NUMBER
			MAIL DATE 01/23/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/919,532

**Applicant(s)**

SCHLOSS ET AL.

**Examiner**

Olabode Akintola

**Art Unit**

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

The Declaration filed on 11/29/2007 under 37 CFR 1.131 is sufficient to overcome the WSJ reference.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29, 40-41, 42, 56 are rejected under 35 U.S.C. 102(a) as being anticipated by O'Leary, C ("Deutsche enters innovative world of Synthetic CLOs" The investment Dealers' Digest, New York, July 5, 1999) (hereinafter referred to as O'Leary).

Re claim 29, 40-41, 42, 56: O'Leary teaches a method, comprising the steps of: aggregating and offering financial instruments for sale in the financial markets, the financial instruments having been originated by a plurality of primary originators, the financial instruments being offered by a financing organization on terms that entirely transfer default risk from the primary originators to purchasers of the financial instruments (see page 1 of 2, paragraphs 1, 4, 7).

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Leary.

Re claim 30 and 45: O'Leary does not explicitly teach that the financial organization is cooperatively owned by at least three of the primary originators, no single originator of the ownership cooperative owning 50% or more of the financial organization.

However the differences are only found in the nonfunctional descriptive material and are not functionally involved in the method (or structurally programmed) steps recited. The steps would be performed the same regardless of ownership structure of the organization. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of Patentability, see *In re Gulack*, 703 F.2d 1381, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to one of ordinary skill at the time of the invention to establish an organization cooperatively owned by individual companies, each having non controlling interest in the organization. Such organization does not functionally relate to the steps and the subjective interpretation of the ownership does not patentably distinguish the claimed invention.

Re claims 31-32, 34-37, 39, 42 and 50-56: These claims include limitations that are nonfunctional descriptive language and are therefore rejected on the same rationale as claim 30.

Re claim 38, 43 and 57: O'Leary does not teach price adjustment based on depreciation rates/average credit risk of borrowers. Official notices in hereby taken that this concept is old and well known in the finance/accounting world. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Leary to include this feature in order to account for the decrease in value of assets over a time period.

Claims 33, 44, 46-49 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Leary in view of Oldfield et al (Risk management in financial institutions, Fall 1997) (hereinafter referred to as Oldfield)

Re claims 33, 44, 46-49 and 58: O'Leary does not explicitly teach underwriting standards and purchasing instrument s that conforms to the standards. Oldfield teaches these limitations on page 36, col. 2, lines 11-43. It would have been obvious to one of ordinary skill in the art at the time of the invention to include this feature to O'Leary in order to ensure compliance to the underwriting standards for the transaction.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

*Anonymous* ("A new leaf for rose", Institutional Investor, New York, Jan 1998)

("DCR to Host Conference Call on Credit -Linked Public Sector Notes Issued by Deutsche Hypothekenbank (Actien-Gessellschaft)") PR Newswire, New York, Nov 15, 1999.

*Stone, C et al.* ("Synthetic collateralized loan obligations: Risk distillation and redistribution") Financier, Philadelphia: 1999.

*Anonymous* ("Deutsche in maiden Blue Stripe CLO"), Euroweek, London, Jun 18, 1999.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA



**HANI M. KAZIMI**  
**PRIMARY EXAMINER**